

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

<b>VENITA FUNES,</b>	)	
	)	
<b>Plaintiff,</b>	)	<b>8:05cv46</b>
	)	
<b>vs.</b>	)	<b>MEMORANDUM AND ORDER</b>
	)	
<b>STEVE RANGEL, et al.,</b>	)	
	)	
<b>Defendants.</b>	)	

This matter is before the court on filing no. 6, the Amended Complaint filed by the plaintiff, Venita Funes, in accordance with the court's Memorandum and Order of April 8, 2005 (filing no. 5). In the Amended Complaint, the plaintiff states that she bases her claims on Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e *et seq.* ("Title VII"), and she has attached to her Amended Complaint a copy of documents indicating her exhaustion of administrative remedies.

I find that the plaintiff's Amended Complaint need not be dismissed on initial review. Therefore, as initial review of the Amended Complaint is now concluded, it is time for the plaintiff to obtain service of process on the defendants, as set forth below. Because the plaintiff is proceeding in forma pauperis ("IFP"), the U.S. Marshal will serve the defendants, after the plaintiff completes the appropriate forms and returns them to the court.

**IT IS THEREFORE ORDERED:**

1. To obtain service of process on the defendants, the plaintiff must complete and return forms which the Clerk of Court will provide.
2. The Clerk of Court shall provide the plaintiff with summons forms and Form 285s (one for each of the named defendants), together with a copy of this order.

3. The plaintiff shall, as soon as possible, send the completed summons and 285 forms back to the Clerk of Court. In the absence of the forms, service of process cannot occur.

4. On receipt of the completed summons and 285 forms, the Clerk will sign each summons, to be forwarded, together with a copy of the complaint, to the U.S. Marshal for service of process. The Marshal shall serve each summons and complaint without payment of costs or fees. Service may be by certified mail pursuant to Fed. R. Civ. P. 4 and Nebraska law, in the discretion of the Marshal.

5. Fed. R. Civ. P. 4 requires service of the complaint on a defendant within 120 days of filing the complaint. However, because in this order the plaintiff is informed for the first time of those requirements, the plaintiff is granted an extension of time until 120 days from the date of this order to complete service of process. The plaintiff is notified that failure to obtain service on a defendant within 120 days of the date of this order may result in dismissal of this matter without further notice as to such defendant.

6. If service has been obtained on no defendant by the deadline set forth above, the Clerk of Court shall bring this case to the attention of the court.

7. After an appearance has been filed by a defendant, the plaintiff shall serve on that defendant or, if an appearance has been entered by counsel, upon such counsel, a copy of every future pleading, letter or other document submitted to the court. Parties usually serve copies of motions and other documents on other parties by first class mail.

8. The plaintiff shall include with each document submitted to the court a "Certificate of Service" stating the date a true and correct copy of such document was mailed to the defendants or to the attorney of any represented defendant. To send communications to the court without serving a copy on the other parties to the case violates the rules of court.

9. Each defendant shall have twenty (20) days after receipt of the summons to answer or otherwise respond to the complaint.

10. The parties are bound by the Federal Rules of Civil Procedure and by the Local Rules of this court.

11. The plaintiff shall keep the court informed of her current address at all times while this case is pending. Failure to do so may result in dismissal.

DATED this 2<sup>nd</sup> day of May, 2005.

BY THE COURT

s/ *David L. Piester*

David L. Piester  
United States Magistrate Judge

INSTRUCTIONS: SUMMONS FORMS AND FORMS 285  
for plaintiffs proceeding pro se and in forma pauperis

1. A summons form provides notice to a defendant that the defendant has been sued and must answer or otherwise respond to the complaint.
2. A form USM-285 ("form 285") provides directions to the U.S. Marshal as to whom to serve with process and where to serve the defendant(s). The U.S. Marshal serves the defendant(s) without cost to you because you are proceeding in forma pauperis ("IFP").
3. Do not copy your complaint to attach to the summons; the court will do that for you.
4. You may serve only defendant(s) named in the case caption of the complaint. If a person is not named in the case caption of the operative complaint (generally the most recent complaint), that person will not be served with process. If you wish to serve additional defendant(s), you must move for leave to amend the complaint to add the additional defendant(s) to the case caption.
5. Be sure to print your case number on all forms.
6. You must give an address for each party to be served. The U.S. Marshal will not know a defendant's address.
7. Only one defendant may be named on each summons and each form 285. You must complete one summons and one form 285 for every defendant.
8. Where a summons form states: "You are hereby summoned and required to serve on plaintiff's attorney" print your name and address.
9. Where a form 285 states: "send notice of service copy to requestor at name and address" print your name and address.
10. Where a form 285 calls for "signature of attorney or other originator" provide your signature and date the form.
11. Leave the last part of the summons form blank. The court will fill in the number of days in which the defendant must answer, and the court will sign and date the form.